

REMARKS**STATUS OF CLAIMS**

Claims in the application are 2-4, 6-14, 30 and 32. All stand rejected.

Objection to Claims 10 and 30

Claims 10 and 30 have been objected to. In Claim 10, use of brackets has been replaced with parentheses. In claim 30, the "of" has been removed. Applicants notice claim 4 had brackets. They have been removed.

Rejection Under 35 USC 112

The problem with claims 4 and 30 has been overcome. The issue regarding claim 8 has been clarified.

Claims Rejection – 35 USC 102/103

All the claims were rejected as unpatentable under 35 USC 102 b or 103(a) over Lissant USP 3,974,116, Robinson USP 4,339,371 or O'Connor USP 5,376,713.

Applicants apologize for the inadvertent failure to amend the claims in the last submission in the manner that was argued in the remarks. That deficiency has been remedied in this instant submission. Specifically, wherever the term "composed of" or "comprises" appeared in the claims, it has been replaced with "consists only of." With this, the arguments presented in the last amendment are now pertinent.

In order to maintain a complete record in one document, applicants will repeat arguments made in the previous amendment. These arguments are as follows:

Lissant USP 3,974,116

The Examiner sets forth his position in the non-final office action of February 10, 2006 on page 4 where he says Lissant teaches copolymers of anionic and non-

ionic monomers made by reverse emulsion polymerization with a diblock or triblock surfactant.

Please note that applicants' claims 30 and 32 have been amended to recite that what is being claimed is a copolymer which has been made using a certain surfactant (which applicants have now limited to "triblocks." Importantly, the copolymer is now recited as being made of only nonionic and cationic monomer units.

By using the term "consists only of" in place of "comprises" it is now clear that the copolymers now claimed are copolymers of nonionic monomers and cationic monomers. It should be clear that the copolymer now claimed cannot contain any anionic segments.

The only places in Lissant where specific copolymers are mentioned are at column 1, lines 45-53 and Example 4, where copolymers of acrylic acid and acrylamide are specified. Acrylic acid is anionic and acrylamide is non-ionic. This type polymer is now excluded from applicants' claims. The Examiner says Lissant teaches copolymers of acrylamide and "cationic (or anionic) monomers," Applicant cannot find where Lissant recites copolymers of acrylamide and cationic monomers and respectfully requests the Examiner to point out the passage in Lissant he relies on. Lissant never teaches copolymers containing only cationic and nonionic moieties. See for example, column 1, lines 58-68 where he discusses the various types of known polymers that can be made using his surfactant. There is nothing in that passage that hints that copolymers can be made. Applicants respectfully submit that Lissant should be discarded as a reference for the foregoing reason. At any rate, applicants point out that nowhere does Lissant describe a surfactant recited in claim 4 and that claim should be allowed for that reason alone.

Robinson USP 4,339, 371

The Examiner says that while Robinson "may not expressly teach the product to be prepared by the process recited in the claims, the product is the same as, or an obvious variant of the presently claimed product..."

The Examiner is assuming applicants claimed product is the same or is obvious from as the products of Robinson (see first office action, dated February 9, 2005). But assumptions, are not sufficient in the Patent Law. The Patent Law requires certainty in prior art teachings. Robinson uses as his primary surfactant a diblock polymer whose formula is set forth in column 1, line 56-65. He then uses a secondary surfactant that is a triblock polymer. (See column 2, lines 38-45).

Applicant has by this present amendment, amended his claims to cover only triblock surfactants. It is now clear that a process, such as Robinsons, which uses a different surfactant system the Robinson likely will not produce identical products.

Moreover, it cannot be assumed that use of a diblock followed by a triblock (Robinson) is the same as a system that uses only a triblock (applicants). Moreover, Robinson says that when the triblock is used alone, it does not work in his system. (see column 8, lines 60-62). This is cogent evidence that his system is not the same as applicants (especially now that applicants' claims cover only triblock surfactants).

In view of the foregoing, applicants respectfully submit that Robinson fails as a reference, especially now that applicants' claims are limited to triblocks.

O'Connor USP 5,376,713

This reference was first cited against the claims in the Office Action dated February 10, 2006. It was included in a list of five references cited against claims 2-14 and 16-32 under 35 USC 102 and 103. The reasons for rejection were the same for all five references.

The Examiner said they all, including O'Connor, teach copolymers of anionic and nonionic monomers made by reverse emulsion polymerization with use of diblock or triblock surfactants. The Examiner added that any property differences would be obvious, but he did not indicate where in any of the cited references the basis for that statement was located. Applicants' claims are now limited to only use of a triblock emulsifier.

There is no hint in O'Connor that only a triblock emulsifier can be used. O'Connor does not suggest that whatsoever. There is no basis in O'Connor to use only triblock emulsifiers. Given there is no suggestion for that, O'Connor would seem to fail as a valid reference.

However, there is another important reason why use of O'Connor is inappropriate. At column 2, lines 43-50 he says he must use two surfactants 1) a partially esterified, dialkanol fatty amide and 2) an ethylene oxide adduct of a long chain compound having reactive hydroxyl and/or carboxyl groups. This is not the same as applicants recitation in the claims.

DOUBLE PATENTING

This rejection was first made in the office action of February 10, 2006, wherein the Examiner says the rejection was provisional and was based on the nonstatutory ground of double patenting.

Specifically, applicants' claims as amended herein were rejected over claims 2-5, 7, 9 and 11-33 of USSN 10/313 632.

The Examiner's position was that common subject matter was being claimed. However, now that applicants herein have amended the claims, the rejection must be re-examined. Applicants' claims now under examination are claims 2-4, 6-14, 30 and 32. Claims 2-4 and 6-14 depend ultimately on claim 30. Claim 32 has no claims dependent on it.

In claim 30 and 32 it is seen that they now recite that the copolymer "is composed of" the non-ionic segment and the cationic segment. By use of the term "composed of", no ionic segments can be present. Accordingly, it is believed the double patent rejection has been overcome inasmuch in USSN 10/3113 632 all claims recite that the polymers therein have anionic and non-ionic segments. There is no mention of cationic segments in the claims. Accordingly, it is submitted there is no overlap of claims and the double patenting rejection should be overcome.

CONCLUSION

In view of the foregoing, applicants respectfully submit the claims herein are free of objections and rejections and their allowance and passage to issuance is respectfully requested.

Respectfully submitted,



Gary A. Samuels
Attorney for Applicant
Reg. No. 20,811

Hercules Incorporated
1313 N. Market Street
Hercules Plaza
Wilmington, DE 19894-0001
Attorney's Phone: (302) 594-6813
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